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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,022	03/02/2004	Jung Hyun Lee	2336-245	9748

7590

08/18/2005

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Suite 310  
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Alexandria, VA 22314

EXAMINER
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ULLAH, AKM E

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/790,022

Applicant(s)

LEE ET AL.

Examiner

Akm Enayet Ullah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Detailed Action***

*Applicant cooperation is requested in correcting any errors of which applicant may become aware in the specification.*

***Status of the Application***

*Claims 1- 18 are pending in this application.*

*If applicant is aware of any prior art or any other co- pending application not already of record, he/she is reminded of his/her duty under 37 CFR 1.56 to disclose the same.*

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Espindola et al (USPNO. 6,301,425) or Chiao (USPNO. 6,850,353) in view of Yeh et al.

Both references disclose an optical attenuator which includes an attenuating section arranged between a receiving waveguide coaxial with a receiving optical fiber and a transmitting waveguide coaxial with a transmitting optical fiber to attenuate the intensity of light emitted from the receiving waveguide to the transmitting waveguide, an actuator for driving a movable section, an inner housing including a cover mounted with the receiving and transmitting waveguides, an outer housing containing and surrounding the inner housing to protect the same.

The above-mentioned fails to mention that the device includes a calibrating section as claimed.

Note that the calibrating section is a part of this type optical attenuator and also is very elementary teachings in this art.

Yeh et al (USPNO. 6,901,182) Is the evidence that ordinary skill in the art would find a reason, suggestion or motivation to have a calibrating section as claimed in the instant optical attenuator. Yeh et al mentioned that “ In the “640 patent. High-precision alignment and calibration and assembly required among the relative positions of five components, including the first optical signal input fiber ----- and shutter 227”.

One of ordinary skill in the art would have found it obvious to use a calibrating section of Yeh et al in (USPNO. 6,301,425) Espindola et al or Chiao (USPNO. 6,850,353) since column 8,

second paragraph of Espindola et al mentioned that the extent of shutter displacement is altered and located by changing the magnetization in the shutter magnet or the outside magnet both to vary the degree of optical attenuation. It is also noted that applicant has not described such (the calibration section) as being critical or yielding unexpected benefits. Certainly a person of ordinary skill in the art would find it beneficial to achieve an optical attenuator from the optical device in Espindola et al (USPNO. 6,301,425) or Chiao (USPNO. 6,850,353) in view of Yeh et al.

#### **Cited Prior Art**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Espindola et al '582 , Hsu et al '583 and Fargette et al'978 are also cited to show a typical optical attenuator along with a magnetic member and a permanent magnet respectively.

#### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akm Enayet Ullah whose telephone number is 571-272-2361. The examiners can normally be reached on Monday through Wednesday from 5:30 am to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick, can be reached on Monday through Friday whose telephone

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number is 571-272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Akm Enayet Ullah  
Primary Examiner  
Art Unit 2874

*Aullah*

*August 16, 2005*